

Development Conditions

SE 2010-PR-023

Cityline Partners, LLC

June 6, 2011

If it is the intent of the Board of Supervisors to approve SE 2010-PR-023 located at Tax Map 30-3 ((28)) 4C for an office building with a maximum height of 225 feet pursuant to Sect. 9-607 of the Fairfax County Zoning Ordinance, the staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.
3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled MITRE 4, prepared by Bowman Consulting and dated May 10, 2011, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.
4. Notwithstanding any subdivision of Land Bay B-3, the entire land bay will be considered as a single unit for the purpose of the application of the Fairfax County Zoning Ordinance, until such time as any portion of the land bay is rezoned. Any subdivision or site plan filed in the future on this Land Bay (as referenced in PCA 92-P-001-07) shall include this notation and reference the appropriate record plat.
5. Upon demand by Fairfax County Department of Transportation (FCDOT), right-of-way dedication necessary for the proposed future Dartford Drive, to be located generally along the eastern property boundary of the subject site, and Colshire Meadow Drive, shown generally near the northern boundary, shall be dedicated for public street purposes for conveyance in fee simple to the Board of Supervisors consistent with and as depicted on Sheet 4 of the SE Plat. Consistent with the provisions of the Fairfax County Zoning Ordinance, the Applicant shall reserve density credit for all eligible dedications.

6. Sidewalks.

- a. Sidewalks shall be phased in and provided along existing and proposed public streets in the locations depicted on the SE Plat. The applicant, its successors or assigns, shall provide any public access easement or dedication referenced here consistent with all site plan, Public Facilities Manual and County Attorney requirements. The County shall not be responsible for preparing the associated legal or engineering documents required for recordation of the easements or dedications.
 - b. Existing Colshire Drive. At the time of site plan approval, a public access easement shall be recorded over the proposed sidewalk contiguous to existing Colshire Drive (as depicted on Sheet 4 of the SE Plat).
 - c. Existing Entry Drive and Future Colshire Meadow Drive. At the time of site plan approval, a public access easement shall be recorded over the proposed sidewalk contiguous to the Existing Entry Drive on the northern border of the site (as depicted on Sheet 4 of the SE Plat). At such time as the Colshire Meadow Drive Extension is constructed along the northern boundary, a new sidewalk contiguous to this street shall be completed as depicted on Sheet 6 of the SE Plat and the public access easement shall be amended to reflect those changes. The Applicant shall work together in good faith with the County and contiguous landowner (of the Johnson 1 site) to revise and update the areas to be placed under public access easement and/or dedicated to the County for this reconfigured sidewalk, portions of which will not fall within the Application site.
 - d. Future Dartford Drive. A public access easement shall be recorded over the planned sidewalk area of the application site that is located contiguous to Dartford Drive, as generally shown on the SE Plat.
 - e. Future dedication of sidewalk areas and conformance with Tysons Comprehensive Plan recommendations. Should the subject site be rezoned to the PTC District in the future, all existing and proposed sidewalks and Landscape Amenity Panels contiguous to public streets shall be dedicated in accordance with any adopted Tysons Corner Transportation Design Standards. Applicant shall also conform to the County's Tysons Corner Comprehensive provisions, including the adopted Urban Design Guidelines, streetscaping and landscaping recommendations, in designing "complete streets" and other relevant, governing Plan provisions.
7. Despite the Note on Sheet 4 of the SE Plat regarding "possible enclosure for mechanical equipment", an enclosure for mechanical equipment shall not be located in the south-easternmost portion of the site. The enclosure may be located within the underground parking facility, at the other "possible enclosure for mechanical equipment" location reflected on Sheet 4 of the SE Plat (contiguous to the MITRE 4 Building) or at the existing, contiguous MITRE 3 mechanical equipment enclosure so long as these locations comply with all

applicable County zoning and other regulations.

8. The temporary park shall be maintained by the owner of the property (or its assigns). A public access easement consistent with all site plan, PFM, and County Attorney requirements shall be recorded over the temporary park area along Colshire Meadow Drive (extended) as shown on the SE Plat. Public access shall be provided at a minimum between the hours of 8AM to the earlier of dusk or 9PM, subject to closure for necessary maintenance or repairs. The right to periodically close the park for company-sponsored events, limited to no more than twelve (12) times annually and for no longer than six hours per event shall be reserved. No permanent community or public property interests are intended to be created by this development condition and temporary easement.
9. Until such time as Colshire Meadow Drive is constructed along the northern boundary of the subject property, a pedestrian connection shall be provided in the general location shown on Sheet 4 of the SE Plat to connect to Ambergate Place (also as depicted on Sheet 4 of the SE Plat). The pedestrian connection shall connect to the proposed sidewalk located south of the Existing Entry Drive (as depicted on Sheet 4 of the SE Plat) in the northern portion of the open space area that is located between the Existing Entry Drive and the interim surface parking lot. The portion of the pedestrian connection located off-site shall be constructed provided the necessary easements are provided at no cost to the applicant. The granting of such easement shall be diligently pursued. In the event the necessary easements are not granted, the pedestrian connection shall be constructed to the boundary of the subject site.
10. Despite Note 20 on Sheet 2, a minimum of 64 bicycle parking spaces shall be provided on this site. The design and location shall be determined during site plan review in consultation with FCDOT.
11. Despite the Note on Sheet 9, the proposed building shall be in general conformance with the building design and elevations shown on the SE Plat and shall be generally compatible with the exterior design, materials and quality of the existing MITRE headquarter buildings.
12. A landscape and streetscape plan shall be submitted concurrent with site plan review and shall provide for the number and sizes of trees and plantings consistent with that shown on the SE Plat and shall be subject to the review and approval of Urban Forest Management Division (UFMD), DPWES.
13. The applicant will include, as part of the site plan/ submission and building plan submission, a list of specific credits within the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design—New Construction (LEED®-NC) rating system, or other LEED rating system determined to be applicable to the building(s) by the U.S. Green Building Council (USGBC), that the applicant anticipates attaining. A LEED-accredited

professional (LEED-AP) who is also a professional engineer or licensed architect will provide certification statements at both the time of site plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED Gold certification of the project. At the time of building plan review, the LEED-AP will also submit a statement detailing the expected building permit submission timelines to determine which building plan approval is expected to be the final.

14. In addition, prior to site plan approval, the applicant will designate the Chief of the Environment and Development Review Branch of the Department of Planning and Zoning as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.
15. Prior to the final building plan approval, the applicant will submit documentation, to the Environment and Development Review Branch of DPZ, regarding the U.S. Green Building Council's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED Gold certification. Prior to release of the final construction bond for the project, the applicant shall provide documentation to the Environment and Development Review Branch of DPZ demonstrating the status of attainment of LEED Silver or a higher level of certification from the U.S. Green Building Council for each building on the property. If the applicant is unable to provide the preliminary review of the design-related credit documentation prior to the final building permit approval but does anticipate receiving the documentation prior to the attainment of the certification, the applicant may, prior to the issuance of the final building permit, post an escrow identical to the one described in the following paragraph. This escrow will be released upon submission of the documentation to the Environment and Development Review Branch of DPZ from the U.S. Green Building Council demonstrating that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED Gold certification.

As an alternative to the actions outlined in the above paragraphs, or if the U.S. Green Building Council review of design-oriented credits indicates that the project is not anticipated to attain a sufficient number of design-related credits to support attainment of LEED Gold certification, the applicant will execute a separate agreement and post, a "green building escrow," in the form of cash or a letter of credit from a financial institute acceptable to DPWES as defined in the Public Facilities Manual, in the amount of (\$2/square foot). This escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED Silver or a higher level of certification,

by the U.S. Green Building Council, under the most current version of the LEED-NC rating system or other LEED rating system determined, by the U.S. Green Building Council. The provision to the Environment and Development Review Branch of DPZ of documentation from the U.S. Green Building Council that the building has attained LEED Silver certification will be sufficient to satisfy this commitment.

16. If the applicant provides to the Environment and Development Review Branch of DPZ, within one year of issuance of the final RUP/non-RUP for the building, documentation demonstrating that LEED Silver certification for the building has not been attained but that the building has been determined by the U.S. Green Building Council to fall within three points of attainment of LEED Silver certification, 50% of the escrow will be released to the applicant; the other 50% will be released to Fairfax County and will be posted to a fund within the county budget supporting implementation of county environmental initiatives.
17. If the applicant fails to provide, within one year of issuance of the final RUP/non-RUP for the building, documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED Silver certification or demonstrating that the building has fallen short of LEED Silver certification by three points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the county budget supporting implementation of county environmental initiatives.
18. If the applicant provides documentation from the USGBC demonstrating, to the satisfaction of the Environment and Development Review Branch of DPZ, that USGBC completion of the review of the LEED Silver certification application has been delayed through no fault of the Applicant, the applicant's contractors or subcontractors, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.
19. The proposed office building shall be included in the Transportation Demand Management (TDM) Program currently approved, or as approved by subsequent rezoning applications, for the adjacent MITRE Campus. If the building cannot be included in the adjacent TDM Program, the building will develop its own TDM program with similar goals, operation and functionality in consultation with FCDOT.
20. Stormwater management and best management practices shall be provided in substantial conformance with that shown on the SE Plat. Specifically, the size and function of the cistern/retention facility shall be in substantial conformance with what is depicted on Sheet 10 of the SE Plat. In addition, each of the Low Impact Development (LID) facilities described shall be provided in substantial conformance with that shown. During the preparation of the final site plan, exact locations, sizes and facilities may change as long as they meet the requirements

as outlined in the LID plan and the site layout remains in conformance with the SE Plat. Additional LID facilities may be provided as desired by the applicant.

21. Written materials relating to the proper maintenance of all the stormwater management and LID facilities shall be provided to the operator of the building including, but not limited to, the manufacturer specifications and maintenance agreement with the County.
22. Monitoring devices to monitor the water consumption of the cooling towers shall be installed, as practicable. Storage and consumption data shall be provided by the building owner or its assigns to the Chief of the Environment and Development Review Branch of DPZ one year after issuance of the final non-RUP and every year on or around that date for the subsequent five years. This data will not be shared in disaggregated form with non-DPZ staff or Planning Commissioners without the written consent of the property owner. The information obtained shall be for information purposes only and provision of the information will not result in any negative consequences to the Applicant. This condition may be modified related to the amount, type, format, frequency, and scope of data provided and the duration of the data provision requirement upon the mutual agreement of DPZ and the Applicant without requiring a SEA.
23. One year after issuance of the non-RUP, and every year on or around that date for the subsequent five years, non-proprietary energy and water consumption data for the building shall be provided. The data shall be provided by the building owner or its assigns to the Chief of the Environment and Development Review Branch of the Department of Planning and Zoning (DPZ) for informational purposes only. Provision of this information will not result in negative zoning consequences for the property owner. The data shall be aggregated by building and will be in the form of kWh or gallons of water used for the building. The data will not be shared in disaggregated form, if applicable, without the written permission of the property owner. This condition may be modified related to the amount, type, format, frequency and scope of data provided and the duration of data provision requirement based on the mutual agreement of DPZ and the property owner without requiring a SEA. Additionally, if the data required cannot be obtained because of applicable law, the utility provider's policy, privacy issues, legal precedence or collection of the data is administratively burdensome to the property owner or the County, written notice shall be provided to the Chief of the Environment and Development Review Branch of DPZ or the Applicant, as applicable, describing why the data cannot be obtained and/or why provision of the data is administratively burdensome. Should the required data be unavailable, as described above, then the condition may be modified or the applicant released from its obligations as mutually agreed upon by the applicant and DPZ.
24. Parking shall be provided in substantial conformance with the SE Plat and the Parking Redesignation Plan dated April 18, 2011.

25. The following tree preservation development conditions shall be in place until Dartford Drive is constructed.

- a. Tree Preservation: A Tree Preservation Plan and Narrative shall be submitted as part of the first and all subsequent site plan submissions. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of the Urban Forest Management Division, DPWES.
- b. The Tree Preservation Plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 8 inches in diameter and greater (measured at 4 ½ -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the limits of clearing and grading. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the SE and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0506 and 12-0508. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.
- c. Tree Preservation Walk-Through. The services of a certified arborist or Registered Consulting Arborist shall be retained, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.
- d. Limits of Clearing and Grading. The limits of clearing and grading as shown on the SE shall be strictly adhered to, subject to allowances specified in these conditions and for the installation of utilities and/or trails

as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the SE, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.”

- e. Tree Preservation Fencing: All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the “Root Pruning” condition below.
- f. All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES.”
- g. Root Pruning. As needed to comply with the tree preservation requirements of these conditions, root pruning shall be done. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:
 - i. Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
 - ii. Root pruning shall take place prior to any clearing and grading, or demolition of structures.
 - iii. Root pruning shall be conducted with the supervision of a certified

- arborist.
- iv. An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.”
 - v. Demolition of Existing Structures. “The demolition of all existing features and structures within areas protected by the limits of clearing and grading areas shown on the SE shall be done by hand without heavy equipment and conducted in a manner that does not impact individual trees and/or groups of trees that are to be preserved as reviewed and approved by the UFMD, DPWES.”
- h. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as conditioned and as approved by the UFMD. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation conditions, and UFMD approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES.”

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.